

103D CONGRESS
1ST SESSION

S. 427

To amend the Internal Revenue Code of 1986 to permit private foundations to use common investment funds.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (legislative day, JANUARY 5), 1993

Mr. MITCHELL introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to permit private foundations to use common investment funds.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PRIVATE FOUNDATIONS PERMITTED TO USE**

4 **COMMON INVESTMENT FUNDS.**

5 (a) IN GENERAL.—Section 501 of the Internal Reve-
6 nue Code of 1986 (relating to exemption from tax on cor-
7 porations, certain trusts, etc.), is amended by redesignat-
8 ing subsection (n) as subsection (o) and by inserting after
9 subsection (m) the following new subsection:

1 “(n) COOPERATIVE SERVICE ORGANIZATIONS FOR
2 CERTAIN FOUNDATIONS.—

3 “(1) IN GENERAL.—For purposes of this title,
4 if an organization—

5 “(A) is organized and operated solely for
6 purposes referred to in subsection (f)(1),

7 “(B) is composed solely of members which
8 are exempt from taxation under subsection (a)
9 and are—

10 “(i) private foundations, or

11 “(ii) community foundations as to
12 which section 170(b)(1)(A)(vi) applies,

13 “(C) has at least 20 members,

14 “(D) does not at any time after the second
15 taxable year beginning after the date of its or-
16 ganization, or, if later, beginning after the date
17 of the enactment of this subsection, have a
18 member which holds more than 10 percent (by
19 value) of the interests in the organization,

20 “(E) is organized and controlled by its
21 members but is not controlled by any one mem-
22 ber and does not have a member which controls
23 another member of the organization, and

24 “(F) permits members of the organization
25 to require the dismissal of any of the organiza-

1 tion’s investment advisors, following reasonable
2 notice, if members holding a majority of inter-
3 est in the account managed by such advisor
4 vote to remove such advisor,
5 then such organization shall be treated as an organi-
6 zation organized and operated exclusively for chari-
7 table purposes.

8 “(2) TREATMENT OF INCOME OF MEMBERS.—

9 If any member of an organization described in para-
10 graph (1) is a private foundation (other than an ex-
11 empt operating foundation, as defined in section
12 4940(d)), such private foundation’s allocable share
13 of the capital gain net income and gross investment
14 income of the organization for any taxable year of
15 the organization shall be treated, for purposes of
16 section 4940, as capital gain net income and gross
17 investment income of such private foundation
18 (whether or not distributed to such foundation) for
19 the taxable year of such private foundation with or
20 within which the taxable year of the organization de-
21 scribed in paragraph (1) ends (and such private
22 foundation shall take into account its allocable share
23 of the deductions referred to in section 4940(c)(3) of
24 the organization).

1 “(3) APPLICABLE EXCISE TAXES.—Subchapter
2 A of chapter 42 (other than sections 4940 and
3 4942) shall apply to any organization described in
4 paragraph (1).”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 4945(d) of such Code is amended
7 by adding at the end the following new flush sen-
8 tence:

9 “Paragraph (4)(B) shall not apply to a grant to an organi-
10 zation described in section 501(n).”.

11 (2) Section 4942(g)(1)(A) of such Code is amended
12 by inserting “or an organization described in section
13 501(n)” after “subsection (j)(3))”.

14 (c) EFFECTIVE DATE.—The amendment made by
15 subsection (a) shall apply to taxable years ending on or
16 after December 31, 1992.

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